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09/680,697	10/06/2000	Walter W. Collins	530055.413R1	1037

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SEED INTELLECTUAL PROPERTY LAW GROUP PLLC  
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SEATTLE, WA 98104

EXAMINER

DEXTER, CLARK F

ART UNIT	PAPER NUMBER
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3724

MAIL DATE	DELIVERY MODE
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01/26/2011

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

**Application No.**

09/680,697

**Applicant(s)**

COLLINS, WALTER W.

**Examiner**

Clark F. Dexter

**Art Unit**

3724

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-13, 15-22, 45, 52, 58, 59, 62, 63, 65-70 and 72 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 and 15-22 is/are allowed.
- 6) ☒ Claim(s) 45, 52, 58, 59, 62, 63, 65-70 and 72 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

1. The amendment filed on November 19, 2010 has been entered. Applicant has been made numerous contacts with the Examiner and the Examiner has worked with applicant in an effort to overcome the outstanding prior art rejections. While these efforts have resulted in the earlier rejections being obviated, the Examiner has determined that the claims are rejectable over other prior art of record. Due to applicant's diligent efforts to resolve the outstanding issues in this application, this Office action is being made **non-final** so that the applicable prior art rejections can be made of record and to give applicant an opportunity to determine the Examiner's position and to address the new grounds of rejection.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

### **Rejections Over Carman**

3. Claims 45, 52 and 67-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carman, pn 1,743,022 in view of Thompson et al., pn 5,131,149.

Carman discloses a knife with almost every structural limitation of the claimed invention (except the limitations that are indicated by strikethrough and are shaded) including:

Regarding claims 45 and 67:

a handle (e.g., 3);

a blade (e.g., 1, 2) pivotally coupled to the handle to be moveable about a rotation axis that extends through a blade pivot point, such that the blade moves between a stowed position and a deployed position, the blade including a tang (e.g., the connecting end portion of 1, 2 including 13) ~~having a portion thereof projecting beyond the handle for engagement by a finger of a user when the blade is in the stowed position~~; and

a spring assembly (e.g., 7, 8; see lines 92-98) operatively coupled between the handle and the blade to act on the blade to urge the blade toward the deployed position when the blade is moved by an external force from the stowed position toward the deployed position at least past a transition position, wherein the blade is not urged toward the deployed position when the blade is between the stowed position and the transition position, the spring assembly positioned, relative to the tang of the blade, to apply a first force on the blade at a point such that the first force extends through said point in a first direction that is offset from the rotation axis to form a first moment about the rotation axis while the blade is positioned between the transition position and the deployed position, for biasing the blade towards the deployed position;

[claim 67] wherein the spring assembly is positioned, relative to the tang of the blade, to apply a second force on the blade at a second point (e.g., another location of contact between the springs 7, 8 and 13) such that the second force extends through said second point in a second direction that, when the blade is in the stowed position, is offset from the rotation axis to form a second moment about the rotation axis for holding the blade in the stowed position.

Regarding claims 52, 68 and 69:

a handle (e.g., 3);

a blade (e.g., 1, 2) having a tang (e.g., the connecting end of the blades 1, 2 including 13) coupled to the handle, the blade configured to rotate about a rotation axis, relative to the handle, between a retracted position and an extended position;

a spring (e.g., 7, 8; see lines 92-98) operatively coupled between the handle and the blade for holding the blade in the retracted position while the blade is in the retracted position and for biasing the blade toward the extended position when the blade is moved from the retracted position past a transition position toward the extended position, wherein the blade is not biased toward the extended position when the blade is between the retracted position and the transition position, the spring positioned, relative to the tang of the blade, to apply a first force on the blade at a point such that the first force extends through said point in a first direction that is offset from the rotation axis when the blade is in the retracted position to form a moment about the rotation axis for holding the blade in the retracted position; and

pressing means for a user to manually move the blade from the retracted position to a location past the transition position with one hand while holding the knife with the same one hand, the pressing means extending from the blade of the knife;

[claim 69] wherein the spring is positioned, relative to the tang of the blade, to apply a second force on the blade at a second point (e.g., another location of contact between the springs 7, 8 and 13) such that the second force extends through said second point in a second direction that is offset from the rotation axis to form a second moment about the rotation axis when the blade is moved beyond the transition position towards the extended position.

**Carman lacks:**

[claim 45] having a portion thereof projecting beyond the handle for engagement by a finger of a user when the blade is in the stowed position;

[claim 52] pressing means for a user to manually move the blade from the retracted position to a location past the transition position with one hand while holding the knife with the same one hand, the pressing means extending from the blade of the knife;

[claim 68 (from 52)] wherein the transition position is located at an angular position of the blade at which the pressing means remains accessible to a thumb or a finger of the user while holding the knife in the same one hand.

However, the Examiner takes Official notice that such structure is old and well known in the art and provides various well known benefits including facilitating removal of the blade from the stowed position to an open position. Thompson discloses one

example of such a structure (e.g., 30) and teaches that the series of friction enhancing ribs 30 "can easily be grasped by the thumb, while holding the handle in one hand, so as to rotate the blade to the extended position." Therefore, it would have been obvious to one having ordinary skill in the art to provide such a structure on the knife of Carman to gain the well known benefits including that described above.

4. Claims 58, 59, 62, 63, 65, 66, 70 and 72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carman, pn 1,743,022 in view of Ennis, pn 5,095,624, Yablonovitch, pn 5,009,008 and/or Howard, pn 4,985,998.

Carman discloses a knife with almost every structural limitation of the claimed invention (except the limitations that are indicated by strikethrough and are shaded) including:

Regarding claims 58, 59 and 70:

a handle (e.g., 3);

a blade (e.g., 1, 2) having a tang (e.g., the connecting end of blades 1, 2) coupled to the handle, the blade configured to rotate about a rotation axis, relative to the handle, through an arc between a retracted position and an extended position when an opening force is applied to the blade;

~~a contact pin coupled to the blade and extending outward from the blade, positioned such that a user can apply an opening force to the contact pin; and~~

a biasing assembly including a spring (e.g., 7, 8; see lines 92-98), the biasing assembly having a first end connected to the handle remote from the rotation axis and a

second end proximate the rotation axis to act on the blade, the second end of the biasing assembly configured to apply an opening force to the blade to bias the blade toward the extended position after the blade is moved from the retracted position past a transition position between the retracted position and the extended position, wherein the blade is not biased toward the extended position when the blade is between the retracted position and the transition position, the second end of the biasing assembly moving away from a back of the handle (e.g., the lower portion of component 3 as viewed in Figs. 1 and 2) towards a front of the handle (e.g., the upper portion of component 3 as viewed in Figs. 1 and 2) as the blade moves beyond the transition position towards the extended position and the opening force being applied at a location radially offset from the rotation axis and in a direction offset from the rotation axis to create a moment about the rotation axis;

[claim 59] wherein the biasing assembly is arranged such that an applied outwardly directed force of the spring thereof increases to a point of maximum force as the blade is moved through the arc from the retracted position toward the transition position, then decreases in force as the blade continues past the point of maximum force at the transition position toward the extended position;

[claim 70] wherein the biasing assembly is further configured to resist movement of the blade away from the retracted position while the blade is in the retracted position.

Regarding claims 62 and 72:

a handle (e.g., 3);



a blade (e.g., 1, 2) having a tang (e.g., the connecting end of the blades 1, 2) coupled to the handle, the blade configured to rotate about a rotation axis, relative to the handle, through an arc between a retracted position and an extended position when an opening force is applied to the blade;

~~a contact pin on the blade, positioned such that a user can apply an opening force to the contact pin; and~~

a biasing assembly including a spring (e.g., 7, 8; see lines 92-98), the biasing assembly operatively coupled to the handle and configured to apply a closing force on the blade while the blade is in the retracted position and to act on the blade to bias the blade toward the extended position when the blade is moved from the retracted position past a transition position toward the extended position, wherein the blade is not biased toward the extended position when the blade is between the retracted position and the transition position, the spring positioned, relative to the tang of the blade, to apply a first force to the blade at a point such that the first force extends through said point in a first direction that is offset from the rotation axis when the blade is positioned between the transition position and the extended position to form a moment about the rotation axis to bias the blade towards the extended position;

[claim 72] wherein an end of the biasing assembly adjacent the tang of the blade is configured to move away from the back of the handle (e.g., the upper/lower portion of component 3 as viewed in Figs. 1 and 2) towards the front of the handle (e.g., the lower/upper portion of component 3 as viewed in Figs. 1 and 2) as the biasing assembly applies an opening bias (e.g., before/after the transition point) to the blade.

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Regarding claim 63:

a handle (e.g., 3);

a blade (e.g., 1, 2) having a tang (e.g., the connecting end of the blades 1, 2) coupled to the handle, the blade configured to rotate about a rotation axis, relative to the handle, through an arc between a retracted position and an extended position when an opening force is applied to the blade;

~~a contact pin on the blade, extending perpendicular to a plane of travel of the blade and positioned such that a user can apply an opening force to the blade; and~~

a biasing assembly including a spring (e.g., 7, 8; see lines 92-98), the biasing assembly coupled to and positioned within the handle to act on the blade and configured to resist rotation of the blade toward the extended position while the blade is in the retracted position and to bias the blade toward the extended position after the blade is manually moved from the retracted position past a transition position, wherein the blade is not biased toward the extended position when the blade is between the retracted position and the transition position, the spring positioned, relative to the tang of the blade, to apply a force on the blade at a point such that the force extends through said point in a direction offset from the rotation axis to form a moment about the rotation axis to bias the blade away from the retracted position and towards the extended position when the blade is moved beyond the transition position towards the extended position.

Regarding claim 66:

a handle (e.g., 3);

a blade (e.g., 1, 2) having a tang (e.g., the connecting end of the blades 1, 2) coupled to the handle, the blade configured to rotate about a rotation axis, relative to the handle, through an arc between a retracted position and an extended position when an opening force is applied to the blade;

~~a contact pin on the blade, the contact pin extending perpendicular to a plane of travel of the blade and positioned such that a user can apply an opening force to the contact pin; and~~

a biasing assembly including a spring (e.g., 7, 8; see lines 92-98), the spring operatively coupled between the handle and the blade and configured to resist rotation of the blade toward the extended position while the blade is in the retracted position and to bias the blade towards the extended position when the blade is moved from the retracted position past a transition position toward the extended position, wherein the blade is not biased toward the extended position when the blade is between the retracted position and the transition position, the spring positioned, relative to the tang of the blade, so as to apply a first force on the blade at a first point such that the first force extends through said first point in a first direction that is offset from the rotation axis when the blade is in the retracted position to form a moment about the rotation axis for holding the blade in the retracted position and to apply a second force on the blade at a second point such that the second force extends through said second point in a second direction that is offset from the rotation axis to form a second moment about the rotation axis to bias the blade towards the extended position when the blade is moved beyond the transition position towards the extended position.

**Carman lacks a contact pin as follows:**

[claim 58] a contact pin coupled to the blade and extending outward from the blade, positioned such that a user can apply an opening force to the contact pin;

[claim 62] a contact pin on the blade, positioned such that a user can apply an opening force to the contact pin;

[claim 63] a contact pin on the blade, extending perpendicular to a plane of travel of the blade and positioned such that a user can apply an opening force to the blade;

[claim 66] a contact pin on the blade, the contact pin extending perpendicular to a plane of travel of the blade and positioned such that a user can apply an opening force to the contact pin.

However, the Examiner takes Official notice that such contact pin structure is old and well known in the art and provides various well known benefits including facilitating removal of the blade from the stowed position to an open position. Ennis discloses one example of such a contact pin structure (e.g., 68) and teaches that “by simply grasping the blade of the member 68 to pivotally move the blade from the position of Fig. 2 (i.e., the closed position) to the position of Fig. 1 (i.e., the open position). Yablonovitch discloses another example of such a contact pin structure (e.g., 10). Howard discloses yet another example of such a contact pin structure (e.g., 8). Therefore, it would have been obvious to one having ordinary skill in the art to provide such a contact pin structure on the knife of Carman to gain the well known benefits including that described above.

### **Rejections Over Pavlowski**

5. Claim 65 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pavlowski, pn 3,079,784.

Pavlowski discloses a device with almost every structural limitation of the claimed invention including:

- a handle (e.g., 12) having a blade cavity and a first end;
- a blade (e.g., 32, 62) having a first end and a second end opposite said first end;
- a blade pivot (e.g., 52) connected to said first end of said handle for pivotal movement of said blade about said blade pivot between an extended position wherein the blade is outside of said blade cavity (e.g., see Fig. 3) and a retracted position wherein a majority of the blade is within said blade cavity (e.g. see Fig. 2);
- a plunger (e.g., 82, 84) including a spring (e.g., 84), the plunger pivotally connected to the blade at a first end (e.g., at 80), and connected to the handle at a second end (e.g., at 88), the spring being maximally deformed when the blade is pivoted to an intermediate position between the extended position and the retracted position, the spring biasing the blade toward the extended position when the blade is positioned between the extended position and the intermediate position, and biasing the blade toward the retracted position when the blade is positioned between the retracted position and the intermediate position, and the first end of the plunger moving away from a back of the handle towards a front of the handle when the blade approaches the intermediate position from the retracted position (e.g., see col. 1, lines 16-23; col. 2, lines 55-58 and 66-72).

**Pawlowski lacks** the blade being a knife blade. However, such pivotal tools including knife blades are old and well known in the art (e.g., see the majority of the prior art in the present application) and such knives provide various well known benefits including pocket knives for facilitating safely carrying a knife or other tool in a stored or stowed position on one's person for subsequent use at a time when the user selects to do so. Therefore, it would have been obvious to one having ordinary skill in the art to replace the key blade of Pawlowski with any type of tool blade including a knife blade to gain the well known benefits such as that described above.

#### ***Issues Relating to Recapture***

6. The claims in their current form are NOT considered to be rejectable under 35 U.S.C. 251 (i.e., there is no improper recapture).

#### ***Allowable Subject Matter***

7. Claims 1-13 and 15-22 are allowable over the prior art of record.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark F. Dexter whose telephone number is (571)272-

4505. The examiner can normally be reached on Monday, Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer D. Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

**/Clark F. Dexter/  
Primary Examiner, Art Unit 3724**

cfd  
January 24, 2011